

REMARKS

Claims 35-43, 47, 49, 51-53 are pending in this application. Claim 35 is the independent claim. By this Amendment, claim 35 is amended and claim 53 is added. Support for the amendments may be found at least at Figs. 2 and 3 of the specification. Thus, no new matter is added which would require additional consideration and/or search.

Interview

A telephone interview was conducted on February 3, 2009 between Examiner Prone and Applicants' representative. During the interview, the Examiner explained that he believes his interpretation of the applied references to be reasonable due to the recitation in the claims of the "peeling direction" and distances and lengths relative to the peeling direction. The Examiner acknowledged that he understands the claimed peeling direction and distances but that due to the wording of the claims his interpretation of the claims is in his opinion reasonable.

Applicants' representative explained that combining the references as proposed in the Office Action (e.g., replacing the bent cutting blade of Neveu with the blade of De Vault) would render the modified device useless for its intended purpose. The Examiner asserted that, in his opinion, the combination of references would establish *prima facie* obviousness. The Examiner stated that combining the references was not intended to be a substitution of parts but rather use of the teachings of the references to suggest modification of the primary reference to one of skill in the art.

Possible claim amendments to better distinguish over the applied references of record were then discussed. The Examiner suggested linking one or more of the claimed dimensions to specific structure. For example, it was suggested to amend independent claim 1 to recite "the vegetable peeler being shorter in the peeling direction than a distance between the lateral gripping surfaces at the peeling blade, and wherein the distance between the lateral gripping surfaces at the peeling blade is larger than a height of the vegetable peeler, the height of the vegetable peeler being perpendicular to a longitudinal length of the lateral gripping surfaces and the cross-piece extends relative to the peeling direction above the peeling blade when used." The Examiner agreed that such an amendment would further define the device in terms that may better distinguish over the art. The claims presented herein include the amended claim feature discussed above, as well as additional structural features that distinguish over the applied references.

Rejections Under 35 U.S.C. §103

Claims 35-43, 47, 49, 51 and 52 are rejected under 35 U.S.C. §103(a) as being unpatentable over US Patent 3,961,418 to Neveu in view of US Patent 2,106,796 to DeVault. The rejection is respectfully traversed.

Neveu relates to a lemon hand peeler consisting of a generally horseshoe-shaped frame 10 provided with a concave outer surface as shown at 12. The peeler includes an inwardly arcuate spaced apart cutter blade 22 whose ends are rigidly supported by the frame 10. The frame is adapted to be held in one hand so as to enable the user to remove the peel from a lemon, or other citrus fruit, by engaging the cutting edge of the blade into the rind of the lemon and manually rotating the lemon to separate the rind from the meat. Each end of the horseshoe-shaped frame 10 has a concave recess 14, such that the frame may be grasped between the thumb and the index finger of a person, as illustrated at FIG. 2, and a portion of the peripheral surface of the thumb and of the index finger being normally applied against the concave peripheral surface 12 of the frame, so as to effectuate a good grip of the frame 10. An additional recess 16, as shown in FIGS. 1 and 2, may be formed proximate each of the recesses 14 to accommodate a smaller hand. The upper and lower faces, 18 and 20, respectively of the frame 10 are substantially flat, and the cutting blade 22 is fastened within the frame 10 by having its ends mounted in appropriate apertures 24 formed in the inner surface 26 of the frame 10. The cutting blade 22 is provided at least with a cutting edge 28 on a plane situated at mid-distance between the upper face 18 and the lower face 20 of the frame 10.

In operation, the lemon peeler is held in one hand of a person, as illustrated at FIG. 2. The lemon 30 is held in the hand of the person and its skin is applied against the cutting edge 28 of the cutting blade 22 so as to effectuate a cut through the skin, preferably to the white membrane just below the skin. The lemon is then rotated manually about its longest axis, as schematically illustrated at FIG. 5, so as to remove the skin or rind thereof.

In contrast, in operation of the peeler that is the subject of this application, the peeler will be clamped between the thumb and the middle finger while the index finger is pressed against the crosspiece. With the peeling blade being in contact with a vegetable or a fruit, the index finger can hold one position of the crosspiece fixed. The additional grip achieved by the thumb and the middle finger is located at an axis which extends through the lateral surfaces gripping surfaces. The fixing point of the index finger is on the crosspiece and therefore at a small

distance to the gripping axis of the thumb and the middle finger. Therefore, guiding the peeler with three fingers ensures perfect control of the three dimensional orientation of peeler and of the forces between the peeling blade and the vegetable or fruit. A flat crosspiece and a small height of the peeler allows the index finger to be in contact with the crosspiece rather close to the peeling blade while clamping the peeler in-between the thumb and the middle finger. This allows the palm of the hand to be above a plane with the crosspiece which would never be possible with a holder disclosed by Neveu. For example, if Neveu's holder would be held with three fingers, then the palm of the hand would extend below the peeling blade, which would prevent such a peeler from peeling a cucumber. Neveu's peeler is designed for lemons and for cutting of strips of lemon rind by grasping the holder (column 1, line 64 to column 2, line 7) and rotating the lemon (column 2, lines 33,34) and not by moving the peeler.

In addition to the above distinctions between Neveu and the claimed subject matter, it is alleged in the Office Action that a distance between the lateral gripping surfaces 14/16 at the peeling blade 22 is larger than a height of the vegetable peeler. However, as recited in the amended claims, the height of the vegetable peeler is defined as being perpendicular to a longitudinal length of the lateral gripping surfaces. Thus, Neveu fails to disclose or suggest the vegetable peeler being shorter in the peeling direction than a distance between the lateral gripping surfaces at the peeling blade, and wherein the distance between the lateral gripping surfaces at the peeling blade is larger than a height of the vegetable peeler, the height of the vegetable peeler being perpendicular to a longitudinal length of the lateral gripping surfaces and to the distance between the lateral gripping surfaces at the peeling blade.

In addition to the above deficiencies of Neveu, it is admitted in the Office Action that Neveu fails to disclose "a peeling blade has a cutting edge and a guiding piece, each lateral gripping surface includes a bearing, the blade is formed as a pendulum blade rotatably held at the gripping surfaces, and the peeling blade is straight." In an effort to overcome the admitted deficiency, it is alleged that it would have been obvious to one of skill in the art at the time of the invention to modify Neveu according to the teachings of DeVault. However, one of skill in the art would not have been motivated to modify Neveu as suggested because to maintain the operability of the Neveu device it would be necessary to replace the cutting blade 22 with a cutting blade having the same functions. As discussed above, Neveu describes the two major functions of a lemon peeler in column 2, lines 35 to 43, namely the capability of accommodating slight variations in size, in view of the thickness of the white membrane separating the skin from

the meat of the fruit and the arcuate shape of the blade 22. In contrast, the peeling blade of De Vault is straight and includes an edge 20, a slot 21 and a guide bar 22 and, therefore, is designed for cutting off peels with a constant thickness. The element including the edge 20, the slot 21 and the guide bar 22 of De Vault does not conform to the arcuate shape of lemons and therefore there is no way of accommodating variations in the thickness as expected by Neveu. Thus, modifying the device of Neveu with the teachings of De Vault would render Neveu useless for its intended purpose.

Further, Neveu teaches to hold the lemon in one's hand and to push the lemon against the cutting blade to cut through the skin to the white membrane and then to rotate the lemon about its longest axis (col. 2, lines 28 to 35). With the peeling blade of De Vault it would not be possible to first cut down to the white membrane and only at this position to start rotating the lemon. With the holder of Neveu, the cutting blade and the holder are at rest while the lemon is rotated. In contrast, with De Vault the holder is pulled and the peeling blade is located relative to the peeling direction at the rear end of the peeler. Thus, modifying Neveu with the teachings of De Vault would render the Neveu device useless for its intended purpose.

As the combination of references fails to disclose or suggest all of the claim features, withdrawal of the rejection is respectfully requested.

New Claim

None of the applied references, whether considered alone or in combination, disclose or suggest the vegetable peeler according to claim 35, wherein the crosspiece extends parallel to the peeling blade, as recited in new claim 53.

CONCLUSION

In view of the above remarks and amendments, the Applicants respectfully submit that each of the pending objections and rejections has been addressed and overcome, placing the present application in condition for allowance. A notice to that effect is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to contact the undersigned.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact John W. Fitzpatrick, Reg. No. 41,018, at the telephone number of the undersigned below.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

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